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EXAMINER

GRAHAM, PAUL J

ART UNIT

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2426

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12/22/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/031,789

Applicant(s)

DAVIDSSON ET AL.

Examiner

PAUL GRAHAM

Art Unit

2426

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 15-17 and 24-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 15-17 and 24-38 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Response to Arguments

1. Applicant's argues:
2. *The cited references do not suggest showing a buddy list simultaneously with TV program.*
3. The Examiner respectfully disagrees. Bruck distinctly shows a transcript of a chat, simultaneously with programming, as noted in Office Action 4/23/08 (see Bruck, figs. 6 and 7 with TV display, transcript *is a list of buddies or chat participants*). Goldman shows a buddy list with a guide, which is TV programming (see Goldman [48]). Said list includes icons or animation displayed with EPG (see Goldman, abstract, [12]).
4. With respect to the argument that some buddies may be viewing different programming, this is shown in Bruck, user may enter chat room on a particular show, while watching another show (see Bruck, col. 14, l. 17-col. 15, l. 8, col 16, l. 18-col. 17, l. 10, fig. 12). Goldman denotes that buddies may be viewing different programming (see Goldman, [61]). Liles also suggests that some buddies may be viewing different programming, given that a user's chat avatars are displayed concurrently with other executable programs (see Liles, col. 5, ll. 43-61).
5. The applicant's remarks have been fully considered and are not persuasive. Claims 1-11, 15-17, 24-38 stand rejected.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1 (and similar and/ or dependent claims) are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 as amended recites: "...images representing a second group of other multimedia apparatuses...". There is no support for this claim in the instant application. In fact, the instant application explicitly denotes "each avatar image displayed in the chat display area represents one ***chat participant***" ***not*** a multimedia apparatus.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 2, 4, 5, 7-9, 15-17, 24-27 and 29-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck et al. (WO 00/64150; cited in prior Office Action) in view of Goldman (US 2002/0112239), and further in view of Liles et al. (US 5,880,731; cited in prior Office Action).

Regarding claims 1, 15, 24, 29, 31, 33 and 35, Bruck et al. ("Bruck") teaches a method, and corresponding apparatus, comprising:
receiving a broadcast video signal at a first multimedia apparatus (page 3, lines 22-23);

receiving text communications from each of a plurality of other multimedia apparatuses (page 4, lines 11-12);

displaying television programming of said broadcast video signal in a first display area of a display (Figs. 6 and 7—118);

determining a theme of the television programming (page 4, lines 7-9);

selecting a background image based on said theme (page 19, lines 1-8—user interface template, "background image", matches the "theme" of the broadcast video signal); and

displaying said background image as a background in a second display area of said display (page 19, lines 1-8—second display area is the entire screen template), said displayed background image having a plurality of displayed graphical elements (Fig. 7—NBC logo 120 and "Third Rock" logo); and

superimposing text of said text communications on said background in said second display area (Figs. 6 and 7).

Bruck teaches displaying in a display area simultaneously with the displayed television programming (see Bruck, Title, "**concurrent** viewing", fig. 6 and 7).

Bruck, however, is unclear on displaying in said second display area a first group of avatar images representing a first group of the other multimedia apparatuses that are all tuned to said television programming, and displaying in said second display area a second group of avatar images at least some of which are tuned to a different television programming than said television programming.

In analogous art, Goldman teaches displaying in said second display area a first group of buddies representing a first group of the other multimedia apparatuses that are all tuned to said television programming, and displaying in said second display area a second group of buddies at least some of which are tuned to a different television programming than said television programming (paragraph 61—"buddies 'Bravo', 'Foxtrot' and 'Hotel' are viewing the program 'Whose Line...'; buddy 'Echo' is viewing the program '60 Minutes'; and buddies 'Alpha', 'Delta', and 'Golf' are viewing the program 'Survivor'.").

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bruck by displaying in said second display area a first group of buddies representing a first group of the other multimedia

apparatuses that are all tuned to said television programming, and displaying in said second display area a second group of buddies at least some of which are tuned to a different television programming than said television programming, as taught by Goldman, in order to allow the viewer to learn in a glance which of the buddies are watching particular programs and for the viewer to engage in a chat session with any of the buddies (Goldman: paragraph 61).

Bruck and Goldman, however, are unclear that the buddies are represented using avatars (Bruck distinctly shows a transcript of a chat, simultaneously with programming, as noted in Office Action 4/23/08 (see Bruck, figs. 6 and 7 with TV display, transcript *is a list* of buddies or chat participants). Goldman shows a buddy list with a guide, which is TV programming (see Goldman [48]). Said list includes icons or animation displayed with EPG (see Goldman, abstract, [12]), with respect to the argument that some buddies may be viewing different programming, this is shown in Bruck, user may enter chat room on a particular show, while watching another show (see Bruck, col. 14, l. 17-col. 15, l. 8, col 16, l. 18-col. 17, l. 10, fig. 12). Goldman denotes that buddies may be viewing different programming (see Goldman, [61]). Liles also suggests that some buddies may be viewing different programming, given that a user's chat avatars are displayed concurrently with other executable programs (see Liles, col. 5, ll. 43-61).

In analogous art, Liles teaches using avatars to represent members of a chat session (col. 6, lines 26-34—user chooses a particular avatar to represent that person in a chat session).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bruck and Goldman by selecting an avatar image that is representative of the television viewer in a chat session, as taught by Liles, in order to allow the user to select and customize an avatar that relates to the subject matter of the chat room (Liles: col. 6, lines 26-34).

Regarding claim 2, 16, 25, 32 and 36, Bruck, Goldman and Liles teach selecting one of the avatar images of the first or second group (that is representative of one of the other multimedia apparatuses); and displaying, simultaneously with said text, said selected avatar image superimposed on top of said background in said second display area (Liles: Fig. 13; col. 6, lines 34-49).

Regarding claims 4, 26, 30 and 34, Bruck, Goldman and Liles meet all the claim limitations. In particular, Bruck teaches the selecting includes selecting said background image from an image database residing in a memory device associated with said first multimedia apparatus (page 18, lines 15-21).

Regarding claims 5 and 27, Bruck, Goldman and Liles meet all the claim limitations. In particular, Bruck teaches the selecting includes selecting said

background image from an image database residing on the Internet (page 18, 15-17).

Regarding claim 7, Bruck, Goldman and Liles meet all the claim limitations. In particular, Liles teaches displaying said text to be superimposed on top of said background in said second display area close to said selected avatar image. A user when submitting a text to the chat room can implement a text balloon. The text balloon is shown next to the avatar to indicate the text is a verbal communication or a mental thought (col. 10, lines 4-28).

Regarding claim 8, Bruck, Goldman and Liles meet all the claim limitations. In particular, Liles teaches said text remains displayed superimposed on top of said background close to said selected avatar image until another text communication is received from one of the other multimedia apparatuses that is represented by the selected one of the avatar images (it is noted that this limitation is not supported in the instant specification, in fact it is countered with definition that avatar image represents a chat participant). The system allows a user to initiate an animation object to produce a gesture accompanied by a text message, the new gesture and text message interrupting any previously initiated animation, which also includes gesture and a text message (col. 10, lines 29-41).

Regarding claims 9 and 17, Bruck, Goldman and Liles meet all the claim limitations. In particular, Liles teaches receiving at the first multimedia apparatus an indication of an action input to the one of the multimedia apparatuses that is represented by the selected one of the avatar images (it is noted that this limitation is not supported in the instant specification, in fact it is countered with definition that avatar image represents a chat participant); in response to the indication, selecting an action image corresponding to said action input; and displaying said action image superimposed on top of said background in said second display area. The system uses avatars to convey gestures in connection with a text message. The gestures can be selected by the user for display to the other users in the chat room (Figs. 4A-4C; col. 7, lines 18-24).

Regarding claims 37 and 38, Bruck, Goldman and Liles meet all the claim limitations. In particular, Bruck teaches tuning away from the first television programming to second television programming included in the received broadcast video signal; displaying the second television programming; displaying, simultaneously with the second television programming, a second background based on the second television programming (page 19, lines 1-22—a different “background image” is chosen accordingly depending on the show the user is tuned to); responsive to tuning away from the first television programming, stopping from displaying the text of the text communications with the first device (page 19, line 18-page 20, line 11—user chats about particular

show the user is tuned to); and superimposing text of text communications with a third device on the second background while the third device is tuned to the second television programming (page 19, line 1-page 20, line 11—user chats with users watching currently tuned program). Goldman teaches continuing to superimpose text of text communications with the second device on the second background while the second device is not tuned to the second television programming (paragraph 61—"buddies 'Bravo', 'Foxtrot' and 'Hotel' are viewing the program 'Whose Line...'; buddy 'Echo' is viewing the program '60 Minutes'; and buddies 'Alpha', 'Delta', and 'Golf' are viewing the program 'Survivor'.").

10. Claims 3, 6 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck in view of Goldman, further in view of Liles, as applied to claims 1 and 24 above, and further in view of Zenith (US 7,036,083; cited in prior Office Action).

Regarding claim 3, Bruck, Goldman and Liles fail to teach the selection of the background image and displaying said background image are both performed at least two times during the broadcast of said television programming.

In analogous art, Zenith teaches the selection a background image and the displaying the background image are both performed at least two times during the broadcast of said television programming. The system changes chat rooms each time the television channel is changed, where the new chat room is related to the newly selected television channel (col. 7, lines 3-21).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bruck, Goldman and Liles by allowing the selection of the background image and displaying said background image are both performed at least two times during the broadcast of said television programming, as taught by Zenith, in order to change the background chat room template each time the channel is changed so that the chat room will correspond to the channel being viewed by the users (Zenith: col. 7, lines 3-6).

Regarding claims 6 and 28, Bruck, Goldman and Liles teach an image database that can reside in a memory device, e.g. "downloaded to the client device", or on the Internet and wherein selecting includes selecting said background image from said image database (Bruck: page 18, lines 13-21). Bruck, Goldman and Liles, however, fail to specifically teach downloading an image database via a multiplexed broadcast stream containing said broadcast video signal.

In analogous art, Zenith teaches a broadcast signal that can include digital data. The broadcaster broadcasts a trigger, which contains a URL, along with the television video (col. 2, lines 47-57; col. 4, lines 48-50).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bruck, Goldman and Liles by downloading an image database via a multiplexed broadcast stream containing said broadcast video signal, wherein selecting includes selecting said background image from said image database, as taught by Zenith, in order allow the broadcaster to use

triggers to have their viewers' receiver units retrieve information from the Internet and display that information in concert with their programming (Zenith: col. 3, lines 4-7).

11. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck in view of Goldman, further in view of Liles, as applied to claim 2 above, and further in view of Gordon et al. (US 6,208,335; cited in prior Office Action).

Regarding claim 10, Bruck, Goldman and Liles teach receiving an indication of an action input to the second multimedia apparatus; in response to the indication, selecting an action image corresponding to said action input (Liles: Figs. 4A-4C; col. 7, lines 18-24). Bruck, Goldman and Liles, however, fail to teach displaying said action image superimposed on top of said television programming in said first display area.

In analogous art, Gordon et al. ("Gordon") teaches displaying an action image superimposed on top of said television programming. The system includes a graphics layer that comprises OSD (on-screen display) overlay(s) including graphical objects. The overlay(s) are displayed over the video layer. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bruck, Goldman and Liles by displaying said action image superimposed on top of said television programming

in said first display area, as taught by Gordon, in order to facilitate certain interactive functions for the user (Gordon: col. 3, lines 3-11).

Regarding claim 11, Gordon additionally teaches displaying said action image includes transparently superimposing said action image over said television programming (col. 3, lines 26-34; col. 7, lines 32-36—the graphics can be transparent).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Bruck, Goldman and Liles by displaying said action image includes transparently superimposing said action image over said television programming, as additionally taught by Gordon, in order to allow much of the underlying video to be seen while positioning certain graphics upon the video (Gordon: col. 3, lines 29-32).

Conclusion

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelton Austin whose telephone number is (571) 270-1705. The examiner can normally be reached on Monday through Thursday from 8:00-5:30. The examiner can also be reached on Fridays from 9:00-4:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava, whose telephone number is (571) 272-7304, can be reached on Monday through Friday from 7:30-5:00. The supervisor can also be reached on alternate Fridays from 9:00-4:00. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

pjg

12/12/2008

/Annan Q Shang/

Primary Examiner, Art Unit 2424